

87TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } No. 2248

AMENDMENT TO COMMUNICATIONS ACT OF 1934

AUGUST 20, 1962.—Referred to the House Calendar and ordered to be printed

Mr. HARRIS, from the Committee on Interstate and Foreign Commerce submitted the following

REPORT

[To accompany H.R. 11732]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 11732) to amend section 305 of the Communications Act of 1934, as amended, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, line 4, strike out "section" and insert in lieu thereof "subsection".

Page 2, line 2, after "United States," insert "but only (1)".

Page 2, line 4, after "and", insert "(2)".

Page 2, line 5, strike out "substantial".

PURPOSE OF LEGISLATION

The purpose of the legislation is to amend the Communications Act of 1934 to authorize the President to license foreign governments to operate low-power point-to-point radio stations (as distinguished from broadcasting stations) in the District of Columbia, for transmission of messages to points outside the United States. This legislation is needed in order to enable the U.S. Government to offer reciprocity when attempting to secure permission from foreign governments for the establishment by the United States of radio stations in their countries. At present, the Communications Act prohibits the granting of such authority to noncitizens.

COMMITTEE HEARINGS

The Committee on Interstate and Foreign Commerce held hearings on this legislation on August 2, 1962. In the course of these hearings the committee heard testimony from Hon. George W. Ball, Under

Secretary of State; Adm. W. E. Curtis, USN (retired), Director of Communications Policy, Office of the Secretary of Defense; and Commissioner T. A. M. Craven, of the Federal Communications Commission.

Secretary Ball testified that this legislation is needed in order to make possible more rapid and dependable communications between Washington and our representatives in certain areas abroad. The problem of establishing such communications exists primarily in some of the countries in Africa, Asia, and Latin America. It does not exist in Western Europe or other areas where up-to-date commercial communication systems are available.

Secretary Ball stressed that the ability to communicate promptly with these areas is an essential element in the conduct of our foreign affairs. It has been found time and time again that our ability to cope effectively with crises in less developed areas is impeded by lack of modern communication facilities.

The Department of State has developed a program contemplating the installation over a period of 10 years of facilities in as many as 92 countries. It is anticipated, however, that relatively few of these countries will exercise the right granted to them under reciprocity considering the cost involved in relation to their need for the continued availability of special facilities.

It was developed in the course of the hearings that for the purposes of this legislation the term "low-power radio station" means a radio station operating with power at or below 400 watts.

The legislation has the support of the Department of Justice, the Central Intelligence Agency, and the Department of Defense. The establishment of low-power point-to-point radio stations by foreign governments in Washington, D.C., will not create any security problems, since the use of these facilities by foreign governments will not materially enhance their opportunity for transmitting secret information as compared to currently available commercial facilities and pouch services.

The legislation has been discussed with the leading American international communication carriers. These carriers do not interpose any objections to the legislation if it is deemed to be necessary in the public interest.

Finally, assurances have been given that the operations of radio stations by foreign governments can be controlled adequately so that they will not cause any serious interference with other licensed radio operations in the United States.

COST OF LEGISLATION

The Department of State has developed a program contemplating the installation over a period of 10 years of facilities in as many as 92 countries at a cost of from \$5,000 to \$200,000 per station. The estimated total expenditure during this 10-year period for these facilities, including the first-year cost of operation, is estimated to be approximately \$23 million.

CONCLUSION

The committee has carefully considered this legislation and has come to the conclusion that this legislation is necessary in order to make available to the U.S. Government vitally needed prompt and

dependable communication facilities where such facilities are unavailable at the present time. In order to secure the establishment of such facilities in foreign countries, the United States must be in a position to offer reciprocity to other countries. The proposed amendment to the Communications Act of 1934 contained in H.R. 11732 will permit this.

The clarifying committee amendments seek to assure that the authority granted by this legislation will be used only in those instances where a foreign government has provided reciprocal privileges to the United States and where the President has determined that the granting of such authorization will be consistent with the national interest of the United States.

The committee urges the enactment of this legislation.

AGENCY REPORTS

APRIL 24, 1962.

Hon. JOHN W. McCORMACK,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: Rapid, secure, and dependable communication between the Department of State and American diplomatic and consular posts abroad is essential to the conduct of U.S. foreign policy. This fact increasingly is true due to the accelerating pace of international negotiations and our need to obtain multilateral solutions to foreign policy problems. Many posts abroad now must rely upon commercial telegraph facilities, usually controlled by local governments which often are Communist dominated. In addition to the difficulties thus encountered in daily operations, internal uprisings and disruptions of international relationships frequently interrupt these commercial facilities at the very time our communication needs are most acute.

The most satisfactory solution to this problem is use of radio transmitters located in our missions abroad. We are severely restricted in the use of such facilities because the Communications Act of 1934 does not permit granting of reciprocal privileges to foreign governments. The Communications Act provides that aliens and representatives of foreign governments may not be licensed to operate radio transmitting stations in the United States. Consequently, many governments will not permit us to operate radio transmitters in their countries.

Principal considerations opposing the granting of reciprocal radio transmitting privileges to representatives of foreign governments in the United States are:

1. Potential loss of revenue to American carriers.
2. Facilitation of transmission of intelligence from the United States by foreign governments.
3. Frequency and interference problems for other radio services in the United States.

There is considerable evidence to indicate that the advantages to be realized by this Government in operating its own radio transmitters abroad materially outweigh the possible disadvantages. Treating them in order, it does not appear that American carriers would suffer significant losses of revenue. The amount of business diverted from American carriers would be small as limitations on power, operating

hours, and frequencies of foreign government operated transmitters would not permit diversion of a large volume of traffic.

As to intelligence considerations, the use of diplomatic radio facilities can be interpreted merely as a modern extension of the time-honored privileges of the diplomatic pouch. The pouch normally enjoys complete immunity from inspection and, with present international air schedules, offers a very rapid channel for transmission of practically unlimited quantities of intelligence material. The foreign missions have open access to international telegraph service and in some instances are in position even to lease international radio or cable channels from the carriers and thus gain all the advantages of speed through direct telegraphic transmission. Additionally, it is contemplated that a bilateral agreement would be negotiated with a foreign government only after it has been carefully determined that a net gain would accrue to the United States.

While there are frequency and interference problems, with the low power permitted and the low-volume intermittent transmission to be expected, they are not insoluble. This is confirmed by the fact that such networks are operated extensively throughout the rest of the world without any serious complication.

I believe that it is in the national interest to amend section 305 of the Communications Act of 1934 to permit granting of reciprocal privileges to selected foreign governments for operation of radio transmitters in their missions in the United States when in the opinion of the President such action is warranted. A draft of the proposed amendment is enclosed.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress.

Sincerely yours,

DEAN RUSK.

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., May 28, 1962.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Defense with respect to H.R. 11732, 87th Congress, a bill to amend section 305 of the Communications Act of 1934, as amended.

The bill would authorize the President, when he determines it to be in the national interest, to permit foreign governments, on a reciprocal basis, to operate radio transmitters in their missions in the United States.

The Department of Defense is in accord with the purposes of the bill and recommends its approval by the committee.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

CYRUS R. VANCE.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., June 14, 1962.

Hon. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on the bill (H.R. 11732) to amend section 305 of the Communications Act of 1934, as amended.

The bill would permit the granting of reciprocal privileges to selected foreign governments for the operation of radio transmitters in their missions in the United States. Specifically, it would provide that the President, under such terms and conditions as he may prescribe, could authorize a foreign government, with whom the United States has a reciprocal agreement, to construct and operate a low-powered radio station for transmission of messages to points outside the United States from points at or near that government's embassy or legation. Such authorization could be given only upon a determination by the President that it would be consistent with the national interest of the United States.

The Department of Justice has no objection to the enactment of the bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

NICHOLAS DEB. KATZENBACH,
Deputy Attorney General.

COMMENTS OF THE FEDERAL COMMUNICATIONS ON H.R. 11732 AND S. 3252

These proposals (which are identical) would authorize the President, under such terms and conditions as he may prescribe, to authorize a foreign government to construct and operate a low-power radio station in the fixed service at or near the site of such government's embassy or legation in Washington, D.C., for the transmission of its messages to points outside the United States. Such an authorization would be made only where the President found that it would be consistent with our national interest and only where the foreign government in question has granted substantial reciprocal privileges to the United States to construct and operate radio stations within territories subject to its jurisdiction. Such foreign government stations would be required to conform to such rules as the President may prescribe. The procedures for granting, renewing, suspending, revoking, or otherwise terminating the authority for such stations would be established by the President and would not be subject to the other provisions of the Communications Act or of the Administrative Procedure Act.

This legislation has been proposed by the Department of State, and has been the subject of extensive coordination among interested departments and agencies of the Government. At the outset, we wish to make clear that the Commission is not in a position to evaluate the needs of the Department of State for this legislation. Nor are we in a

position to assess fully the extent of the security problem which may result from the operation of foreign government stations in Washington, D.C.

Aside from the above points, the Commission has had several areas of concern with respect to this proposal.

(1) There is a scarcity of frequencies in the 4 to 27.5 Mc/s frequency range used for most long-distance communications and in which the proposed stations would be expected to operate.

(2) The possible loss of revenue by U.S. communications common carriers, a result of traffic being diverted from such carriers to the stations authorized pursuant to this proposal.

(3) The enforcement and surveillance problems resulting from the operation of foreign government stations in this country.

(4) The interference potential from the foreign government stations to U.S. radio stations.

The Commission believes that the matters set forth above must be considered in weighing the desirability of the legislation. However, in our opinion, the seriousness of the problems which might result from this legislation has been sharply reduced because of the careful manner in which the proposal is drafted, as well as the practices and procedures which we understand will be followed in its implementation. Some of the more important of these, as we understand them, are as follows:

(a) Foreign government stations will be authorized only where the President determines that such authorization will be consistent with the national interest.

(b) No foreign government will be authorized to operate more than one station.

(c) All of the stations authorized will be in Washington, D.C., and each one will be at or near the embassy or legation of the country in question.

(d) The total number of foreign stations authorized is expected to be relatively small compared to the number of embassies and legations in Washington.

(e) It is not contemplated that stations will be authorized to those foreign governments which generate the greatest volume of communications traffic, since existing commercial facilities to and from such countries generally are adequate.

(f) The stations will be limited in power, hours of operation, and types of authorized transmission. Thus, they will not have facilities comparable to those of U.S. communications common carriers, and the danger of interference to U.S. radio stations also will be reduced.

(g) The stations will not be authorized to transmit messages to points inside the United States.

(h) There will be full coordination with all interested U.S. Government agencies before frequencies are assigned for use by any foreign government station.

(i) Use of any frequency would be conditional on no harmful interference being caused to U.S. radio stations.

(j) The stations would be required to use transmitting equipment which conforms to the technical standards established by the Federal Communications Commission.

(k) The President (or his designee) after consultation with the Federal Communications Commission would impose such other conditions and restrictions as were considered to be necessary.

(1) This Commission would extend its normal technical monitoring coverage to encompass the foreign government stations.

In our opinion, the above-planned criteria and practices will minimize any problems which might result from the legislation. Accordingly, if it is determined that there is a need for the legislation, the Commission would have no objection to its enactment. Moreover, if such legislation is enacted, we are strongly of the opinion that the authority to authorize foreign government radio stations and to prescribe rules and conditions for their operation should be conferred upon the President as is provided in H.R. 11732 and S. 3252.

Adopted June 13, 1962.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., May 25, 1962.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your letter of May 16, 1962, requesting the comments of this Office with respect to H.R. 11732, a bill to amend section 305 of the Communications Act of 1934, as amended.

This bill represents the introduced version of a proposal submitted to the Congress by the Department of State. For the reasons set out in the explanatory material accompanying the proposal, the Bureau of the Budget would have no objection to the enactment of H.R. 11732.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 305 OF THE COMMUNICATIONS ACT OF 1934

GOVERNMENT-OWNED STATIONS

SEC. 305. (a) Radio stations belonging to and operated by the United States shall not be subject to the provisions of sections 301 and 303 of this Act. All such Government stations shall use such frequencies as shall be assigned to each or to each class by the President. All such stations, except stations on board naval and other Government vessels while at sea or beyond the limits of the continental United States, when transmitting any radio communication or signal other than a communication or signal relating to Government business, shall conform to such rules and regulations designed to prevent interference with other radio stations and the rights of others as the Commission may prescribe.

(b) Radio stations on board vessels of the United States Maritime Commission or the Inland and Coastwise Waterways Service shall be subject to the provisions of this title.

(c) All stations owned and operated by the United States, except mobile stations of the Army of the United States, and all other stations on land and sea, shall have special call letters designated by the Commission.

(d) *The provisions of sections 301 and 303 of this Act notwithstanding, the President may authorize a foreign government, under such terms and conditions as he may prescribe, to construct and operate at the seat of government of the United States a low-power radio station in the fixed service at or near the site of the embassy or legation of such foreign government for transmission of its messages to points outside the United States, but only (1) where he determines that the authorization would be consistent with the national interest of the United States and (2) where such foreign government has provided reciprocal privileges to the United States to construct and operate radio stations within territories subject to its jurisdiction. Foreign government stations authorized pursuant to the provisions of this subsection shall conform to such rules and regulations as the President may prescribe. The authorization of such stations, and the renewal, modification, suspension, revocation, or other termination of such authority shall be in accordance with such procedures as may be established by the President and shall not be subject to the other provisions of this Act or of the Administrative Procedure Act.*

ADDITIONAL VIEWS

In the hearings on this legislation, I questioned the wisdom and the justice of giving to foreign governments powers, privileges, and authorities which we do not give to our taxpaying communication facilities in this country. In addition, I questioned any provision which would bypass the Federal Communications Commission, in favor of a foreign government. We regulate the industry here in this country. They pay for the privilege, and they pay taxes. In addition, domestic stations have no diplomatic immunity, and they would not, and probably could not, be made part of a spy network.

The answer given the committee was that we needed the privilege we sought to reciprocate. When the witnesses were queried as to why we could not insist upon the privilege in return for the foreign aid we were giving, the answer we were given was that these new countries were new and this was necessary to their dignity. They are not too dignified to take our money, just too dignified enough to want status not earned.

A low frequency station in Washington, D.C., could well be used to communicate with a spy ship just off the coast. Perhaps it cannot happen, and we all hope it will not happen, but to put the potential of a communication system as a part of a spy network or effort against this great country cannot be justified. Neither does it make sense to say that while we are loaning and giving a foreign country millions of dollars that we cannot ask in return the simple privilege of a radio station.

This legislation emphasizes the weakness of our State Department in its negotiations and its inability to serve our country first.

This legislation also shows to us again that our foreign aid program is really a giveaway program and we are apparently not making the kind of friends who would not object to our communicating from their country to ours in the most feasible manner. The American taxpayer's dollar is being spent and we are not making friends or influencing people.

We are giving away a very valuable right. We must assume that the ambition is for good, even if the realities point out that the legislation is not good legislation.

I oppose the legislation.

ROBERT W. HEMPHILL;